

106TH CONGRESS  
2D SESSION

# S. 2337

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

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## IN THE SENATE OF THE UNITED STATES

MARCH 30, 2000

Mr. SANTORUM (for himself and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fair Care for the Un-  
5       insured Act”.

1 **TITLE I—REFUNDABLE CREDIT**  
 2 **FOR HEALTH INSURANCE**  
 3 **COVERAGE**

4 **SEC. 101. REFUNDABLE CREDIT FOR HEALTH INSURANCE**  
 5 **COVERAGE.**

6 (a) IN GENERAL.—Subpart C of part IV of sub-  
 7 chapter A of chapter 1 of the Internal Revenue Code of  
 8 1986 (relating to refundable credits) is amended by redes-  
 9 ignating section 35 as section 36 and by inserting after  
 10 section 34 the following:

11 **“SEC. 35. HEALTH INSURANCE COSTS.**

12 “(a) IN GENERAL.—In the case of an individual,  
 13 there shall be allowed as a credit against the tax imposed  
 14 by this subtitle an amount equal to the amount paid dur-  
 15 ing the taxable year for qualified health insurance for the  
 16 taxpayer and the taxpayer’s spouse and dependents.

17 “(b) LIMITATIONS.—

18 “(1) IN GENERAL.—The amount allowed as a  
 19 credit under subsection (a) to the taxpayer for the  
 20 taxable year shall not exceed the sum of the monthly  
 21 limitations for coverage months during such taxable  
 22 year for each individual referred to in subsection (a)  
 23 for whom the taxpayer paid during the taxable year  
 24 any amount for coverage under qualified health in-  
 25 surance.

1 “(2) MONTHLY LIMITATION.—

2 “(A) IN GENERAL.—The monthly limita-  
3 tion for an individual for each coverage month  
4 of such individual during the taxable year is the  
5 amount equal to 1/12 of—

6 “(i) \$1,000 if such individual is the  
7 taxpayer,

8 “(ii) \$1,000 if—

9 “(I) such individual is the spouse  
10 of the taxpayer,

11 “(II) the taxpayer and such  
12 spouse are married as of the first day  
13 of such month, and

14 “(III) the taxpayer files a joint  
15 return for the taxable year, and

16 “(iii) \$1,000 if such individual is an  
17 individual for whom a deduction under sec-  
18 tion 151(c) is allowable to the taxpayer for  
19 such taxable year.

20 “(B) LIMITATION TO 1 DEPENDENT.—Not  
21 more than 1 individual may be taken into ac-  
22 count by the taxpayer under subparagraph  
23 (A)(iii).

24 “(3) COVERAGE MONTH.—For purposes of this  
25 subsection—

1           “(A) IN GENERAL.—The term ‘coverage  
2 month’ means, with respect to an individual,  
3 any month if—

4           “(i) as of the first day of such month  
5 such individual is covered by qualified  
6 health insurance, and

7           “(ii) the premium for coverage under  
8 such insurance for such month is paid by  
9 the taxpayer.

10          “(B) EMPLOYER-SUBSIDIZED COV-  
11 ERAGE.—Such term shall not include any  
12 month for which such individual eligible to par-  
13 ticipate in any subsidized health plan (within  
14 the meaning of section 162(l)(2)) maintained by  
15 any employer of the taxpayer or of the spouse  
16 of the taxpayer.

17          “(C) CAFETERIA PLAN AND FLEXIBLE  
18 SPENDING ACCOUNT BENEFICIARIES.—Such  
19 term shall not include any month during a tax-  
20 able year if any amount is not includible in the  
21 gross income of the taxpayer for such year  
22 under section 106 with respect to—

23           “(i) a benefit chosen under a cafeteria  
24 plan (as defined in section 125(d)), or

1 “(ii) a benefit provided under a flexi-  
2 ble spending or similar arrangement.

3 “(D) MEDICARE, MEDICAID, AND SCHIP.—  
4 Such term shall not include any month with re-  
5 spect to an individual if, as of the first day of  
6 such month, such individual—

7 “(i) is entitled to any benefits under  
8 title XVIII of the Social Security Act, or

9 “(ii) is a participant in the program  
10 under title XIX or XXI of such Act.

11 “(E) CERTAIN OTHER COVERAGE.—Such  
12 term shall not include any month during a tax-  
13 able year with respect to an individual if, at any  
14 time during such year, any benefit is provided  
15 to such individual under—

16 “(i) chapter 17 of title 38, United  
17 States Code, or

18 “(ii) any medical care program under  
19 the Indian Health Care Improvement Act.

20 “(F) PRISONERS.—Such term shall not in-  
21 clude any month with respect to an individual  
22 if, as of the first day of such month, such indi-  
23 vidual is imprisoned under Federal, State, or  
24 local authority.

1           “(G) INSUFFICIENT PRESENCE IN UNITED  
 2           STATES.—Such term shall not include any  
 3           month during a taxable year with respect to an  
 4           individual if such individual is present in the  
 5           United States on fewer than 183 days during  
 6           such year (determined in accordance with sec-  
 7           tion 7701(b)(7)).

8           “(4) COORDINATION WITH DEDUCTION FOR  
 9           HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-  
 10          DIVIDUALS.—In the case of a taxpayer who is eligi-  
 11          ble to deduct any amount under section 162(l) for  
 12          the taxable year, this section shall apply only if the  
 13          taxpayer elects not to claim any amount as a deduc-  
 14          tion under such section for such year.

15          “(c) QUALIFIED HEALTH INSURANCE.—For pur-  
 16          poses of this section—

17               “(1) IN GENERAL.—The term ‘qualified health  
 18               insurance’ means insurance which constitutes med-  
 19               ical care as defined in section 213(d) without regard  
 20               to—

21                       “(A) paragraph (1)(C) thereof, and

22                       “(B) so much of paragraph (1)(D) thereof  
 23                       as relates to qualified long-term care insurance  
 24                       contracts.

1           “(2) EXCLUSION OF CERTAIN OTHER CON-  
 2           TRACTS.—Such term shall not include insurance if a  
 3           substantial portion of its benefits are excepted bene-  
 4           fits (as defined in section 9832(c)).

5           “(d) MEDICAL SAVINGS ACCOUNT CONTRIBU-  
 6           TIONS.—

7           “(1) IN GENERAL.—If a deduction would (but  
 8           for paragraph (2)) be allowed under section 220 to  
 9           the taxpayer for a payment for the taxable year to  
 10          the medical savings account of an individual, sub-  
 11          section (a) shall be applied by treating such payment  
 12          as a payment for qualified health insurance for such  
 13          individual.

14          “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-  
 15          tion shall be allowed under section 220 for that por-  
 16          tion of the payments otherwise allowable as a deduc-  
 17          tion under section 220 for the taxable year which is  
 18          equal to the amount of credit allowed for such tax-  
 19          able year by reason of this subsection.

20          “(e) SPECIAL RULES.—

21          “(1) COORDINATION WITH MEDICAL EXPENSE  
 22          DEDUCTION.—The amount which would (but for this  
 23          paragraph) be taken into account by the taxpayer  
 24          under section 213 for the taxable year shall be re-

duced by the credit (if any) allowed by this section to the taxpayer for such year.

“(2) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.

“(3) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2000’ for ‘calendar year 1992’ in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of \$50 (\$25 in the case of the dollar amount in subsection (b)(2)(A)(iii)).”.



1 (b) MAINTENANCE OF EFFORT REQUIREMENT.—

2 Section 162 of the Internal Revenue Code of 1986 (relat-  
3 ing to trade or business expenses) is amended by redesignig-  
4 nating subsection (p) as subsection (q) and by inserting  
5 after subsection (o) the following new subsection:

6 “(p) GROUP HEALTH PLAN MAINTENANCE OF EF-  
7 FORT.—No deduction shall be allowed under this chapter  
8 to an employer for any amount paid or incurred in connec-  
9 tion with a group health plan (as defined in subsection  
10 (n)(3)) for any taxable year in which occurs the date of  
11 introduction of the Fair Care for the Uninsured Act unless  
12 such plan remains in effect for at least 6 months after  
13 the date of the enactment of such Act.”.

14 (c) INFORMATION REPORTING.—

15 (1) IN GENERAL.—Subpart B of part III of  
16 subchapter A of chapter 61 of the Internal Revenue  
17 Code of 1986 (relating to information concerning  
18 transactions with other persons) is amended by in-  
19 serting after section 6050S the following:

20 **“SEC. 6050T. RETURNS RELATING TO PAYMENTS FOR**  
21 **QUALIFIED HEALTH INSURANCE.**

22 “(a) IN GENERAL.—Any person who, in connection  
23 with a trade or business conducted by such person, re-  
24 ceives payments during any calendar year from any indi-  
25 vidual for coverage of such individual or any other indi-

1 vidual under creditable health insurance, shall make the  
 2 return described in subsection (b) (at such time as the  
 3 Secretary may by regulations prescribe) with respect to  
 4 each individual from whom such payments were received.

5 “(b) FORM AND MANNER OF RETURNS.—A return  
 6 is described in this subsection if such return—

7 “(1) is in such form as the Secretary may pre-  
 8 scribe, and

9 “(2) contains—

10 “(A) the name, address, and TIN of the  
 11 individual from whom payments described in  
 12 subsection (a) were received,

13 “(B) the name, address, and TIN of each  
 14 individual who was provided by such person  
 15 with coverage under creditable health insurance  
 16 by reason of such payments and the period of  
 17 such coverage, and

18 “(C) such other information as the Sec-  
 19 retary may reasonably prescribe.

20 “(c) CREDITABLE HEALTH INSURANCE.—For pur-  
 21 poses of this section, the term ‘creditable health insurance’  
 22 means qualified health insurance (as defined in section  
 23 35(c)) other than—

24 “(1) insurance under a subsidized group health  
 25 plan maintained by an employer, or

1           “(2) to the extent provided in regulations pre-  
 2       scribed by the Secretary, any other insurance cov-  
 3       ering an individual if no credit is allowable under  
 4       section 35 with respect to such coverage.

5       “(d) STATEMENTS TO BE FURNISHED TO INDIVID-  
 6       UALS WITH RESPECT TO WHOM INFORMATION IS RE-  
 7       QUIRED.—Every person required to make a return under  
 8       subsection (a) shall furnish to each individual whose name  
 9       is required under subsection (b)(2)(A) to be set forth in  
 10      such return a written statement showing—

11           “(1) the name and address of the person re-  
 12      quired to make such return and the phone number  
 13      of the information contact for such person,

14           “(2) the aggregate amount of payments de-  
 15      scribed in subsection (a) received by the person re-  
 16      quired to make such return from the individual to  
 17      whom the statement is required to be furnished, and

18           “(3) the information required under subsection  
 19      (b)(2)(B) with respect to such payments.

20      The written statement required under the preceding sen-  
 21      tence shall be furnished on or before January 31 of the  
 22      year following the calendar year for which the return  
 23      under subsection (a) is required to be made.

24       “(e) RETURNS WHICH WOULD BE REQUIRED TO BE  
 25      MADE BY 2 OR MORE PERSONS.—Except to the extent

1 provided in regulations prescribed by the Secretary, in the  
 2 case of any amount received by any person on behalf of  
 3 another person, only the person first receiving such  
 4 amount shall be required to make the return under sub-  
 5 section (a).”.

6 (2) ASSESSABLE PENALTIES.—

7 (A) Subparagraph (B) of section  
 8 6724(d)(1) of such Code (relating to defini-  
 9 tions) is amended by redesignating clauses (xi)  
 10 through (xvii) as clauses (xii) through (xviii),  
 11 respectively, and by inserting after clause (x)  
 12 the following:

13 “(xi) section 6050T (relating to re-  
 14 turns relating to payments for qualified  
 15 health insurance),”.

16 (B) Paragraph (2) of section 6724(d) of  
 17 such Code is amended by striking “or” at the  
 18 end of the next to last subparagraph, by strik-  
 19 ing the period at the end of the last subpara-  
 20 graph and inserting “, or”, and by adding at  
 21 the end the following:

22 “(BB) section 6050T(d) (relating to re-  
 23 turns relating to payments for qualified health  
 24 insurance).”.

1           (3) CLERICAL AMENDMENT.—The table of sec-  
 2           tions for subpart B of part III of subchapter A of  
 3           chapter 61 of such Code is amended by inserting  
 4           after the item relating to section 6050S the fol-  
 5           lowing:

                  “Sec. 6050T. Returns relating to payments for qualified health  
                   insurance.”.

6           (d) CONFORMING AMENDMENTS.—

7           (1) Paragraph (2) of section 1324(b) of title  
 8           31, United States Code, is amended by inserting be-  
 9           fore the period “, or from section 35 of such Code”.

10          (2) The table of sections for subpart C of part  
 11          IV of subchapter A of chapter 1 of the Internal Rev-  
 12          enue Code of 1986 is amended by striking the last  
 13          item and inserting the following:

                  “Sec. 35. Health insurance costs.

                  “Sec. 36. Overpayments of tax.”.

14          (e) EFFECTIVE DATE.—The amendments made by  
 15          this section shall apply to taxable years beginning after  
 16          December 31, 2000.

17       **SEC. 102. ADVANCE PAYMENT OF CREDIT FOR PUR-**  
 18                       **CHASERS OF QUALIFIED HEALTH INSUR-**  
 19                       **ANCE.**

20          (a) IN GENERAL.—Chapter 77 of the Internal Rev-  
 21          enue Code of 1986 (relating to miscellaneous provisions)  
 22          is amended by adding at the end the following:

1 **“SEC. 7527. ADVANCE PAYMENT OF HEALTH INSURANCE**  
2 **CREDIT FOR PURCHASERS OF QUALIFIED**  
3 **HEALTH INSURANCE.**

4 “(a) GENERAL RULE.—In the case of an eligible indi-  
5 vidual, the Secretary shall make payments to the provider  
6 of such individual’s qualified health insurance equal to  
7 such individual’s qualified health insurance credit advance  
8 amount with respect to such provider.

9 “(b) ELIGIBLE INDIVIDUAL.—For purposes of this  
10 section, the term ‘eligible individual’ means any  
11 individual—

12 “(1) who purchases qualified health insurance  
13 (as defined in section 35(c)), and

14 “(2) for whom a qualified health insurance  
15 credit eligibility certificate is in effect.

16 “(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGI-  
17 BILITY CERTIFICATE.—For purposes of this section, a  
18 qualified health insurance credit eligibility certificate is a  
19 statement furnished by an individual to the Secretary  
20 which—

21 “(1) certifies that the individual will be eligible  
22 to receive the credit provided by section 35 for the  
23 taxable year,

24 “(2) estimates the amount of such credit for  
25 such taxable year, and

1 “(3) provides such other information as the  
2 Secretary may require for purposes of this section.

3 “(d) QUALIFIED HEALTH INSURANCE CREDIT AD-  
4 VANCE AMOUNT.—For purposes of this section, the term  
5 ‘qualified health insurance credit advance amount’ means,  
6 with respect to any provider of qualified health insurance,  
7 the Secretary’s estimate of the amount of credit allowable  
8 under section 35 to the individual for the taxable year  
9 which is attributable to the insurance provided to the indi-  
10 vidual by such provider.

11 “(e) REGULATIONS.—The Secretary shall prescribe  
12 such regulations as may be necessary to carry out the pur-  
13 poses of this section.”.

14 (b) CLERICAL AMENDMENT.—The table of sections  
15 for chapter 77 of the Internal Revenue Code of 1986 is  
16 amended by adding at the end the following:

“Sec. 7527. Advance payment of health insurance credit for pur-  
chasers of qualified health insurance.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on January 1, 2001.

19 **TITLE II—ASSURING HEALTH IN-**  
20 **SURANCE COVERAGE FOR UN-**  
21 **INSURABLE INDIVIDUALS**

22 **SEC. 201. ESTABLISHMENT OF HEALTH INSURANCE SAFETY**  
23 **NETS.**

24 (a) IN GENERAL.—

1           (1) REQUIREMENT.—For years beginning with  
2       2001, each health insurer, health maintenance orga-  
3       nization, and health service organization shall be a  
4       participant in a health insurance safety net (in this  
5       title referred to as a “safety net”) established by the  
6       State in which it operates.

7           (2) FUNCTIONS.—Any safety net shall assure,  
8       in accordance with this title, the availability of quali-  
9       fied health insurance coverage to uninsurable indi-  
10      viduals.

11          (3) FUNDING.—Any safety net shall be funded  
12      by an assessment against health insurers, health  
13      service organizations, and health maintenance orga-  
14      nizations on a pro rata basis of uninsurable individ-  
15      uals covered in the State in which the safety net op-  
16      erates. The costs of the assessment may be added by  
17      a health insurer, health service organization, or  
18      health maintenance organization to the costs of its  
19      health insurance or health coverage provided in the  
20      State.

21          (4) GUARANTEED RENEWABLE.—Coverage  
22      under a safety net shall be guaranteed renewable ex-  
23      cept for nonpayment of premiums, material mis-  
24      representation, fraud, medicare eligibility under title  
25      XVIII of the Social Security Act (42 U.S.C. 1395 et



1 seq.), loss of dependent status, or eligibility for other  
 2 health insurance coverage.

3 (b) DEADLINE.—Safety nets required under sub-  
 4 section (a) shall be established not later than January 1,  
 5 2001.

6 (c) WAIVER.—This title shall not apply in the case  
 7 of insurers and organizations operating in a State if the  
 8 State has established a similar comprehensive health in-  
 9 surance program that assures the availability of qualified  
 10 health insurance coverage to all eligible individuals resid-  
 11 ing in the State.

12 (d) RECOMMENDATION FOR COMPLIANCE REQUIRE-  
 13 MENT.—Not later than January 1, 2002, the Secretary  
 14 of Health and Human Services shall submit to Congress  
 15 a recommendation on appropriate sanctions for States  
 16 that fail to meet the requirement of subsection (a).

17 **SEC. 202. UNINSURABLE INDIVIDUALS ELIGIBLE FOR COV-**  
 18 **ERAGE.**

19 (a) UNINSURABLE AND ELIGIBLE INDIVIDUAL DE-  
 20 FINED.—In this title:

21 (1) UNINSURABLE INDIVIDUAL.—The term  
 22 “uninsurable individual” means, with respect to a  
 23 State, an eligible individual who presents proof of  
 24 uninsurability by a private insurer in accordance

1 with subsection (b) or proof of a condition previously  
2 recognized as uninsurable by the State.

3 (2) ELIGIBLE INDIVIDUAL.—

4 (A) IN GENERAL.—The term “eligible indi-  
5 vidual” means, with respect to a State, a citizen  
6 or national of the United States (or an alien  
7 lawfully admitted) who is a resident of the  
8 State for at least 90 days.

9 (B) EXCEPTION.—An individual is not an  
10 “eligible individual” if the individual—

11 (i) is covered by or eligible for benefits  
12 under a State medicaid plan approved  
13 under title XIX of the Social Security Act  
14 (42 U.S.C. 1396 et seq.),

15 (ii) has voluntarily terminated safety  
16 net coverage within the past 6 months,

17 (iii) has received the maximum benefit  
18 payable under the safety net,

19 (iv) is an inmate in a public institu-  
20 tion, or

21 (v) is eligible for other public or pri-  
22 vate health care programs (including pro-  
23 grams that pay for directly, or reimburse,  
24 otherwise eligible individuals with pre-  
25 miums charged for safety net coverage).

1 (b) PROOF OF UNINSURABILITY.—

2 (1) IN GENERAL.—The proof of uninsurability  
3 for an individual shall be in the form of—

4 (A) a notice of rejection or refusal to issue  
5 substantially similar insurance,

6 (B) a notice of refusal to insure except at  
7 a rate in excess of the plan rate which applies  
8 to persons in good health, or

9 (C) an offer to insure only subject to a re-  
10 duction or an exclusion of coverage for a pre-  
11 existing condition for a period exceeding 6  
12 months.

13 (2) EXCEPTION.—A State may waive the re-  
14 quirement of proof described in paragraph (1) in the  
15 case of an individual who demonstrates a provable  
16 medical or health condition.

17 **SEC. 203. QUALIFIED HEALTH INSURANCE COVERAGE**  
18 **UNDER SAFETY NET.**

19 In this title, the term “qualified health insurance cov-  
20 erage” means, with respect to a State, health insurance  
21 coverage that provides benefits typical of major medical  
22 insurance available in the individual health insurance mar-  
23 ket in such State.

24 **SEC. 204. FUNDING OF SAFETY NET.**

25 (a) LIMITATIONS ON PREMIUMS.—

1           (1) IN GENERAL.—The premium established  
2       under a safety net may not exceed 125 percent of  
3       the applicable standard risk rate, except as provided  
4       in paragraph (2).

5           (2) SURCHARGE FOR AVOIDABLE HEALTH  
6       RISKS.—A safety net may impose a surcharge on  
7       premiums for individuals with avoidable high risks,  
8       such as smoking.

9       (b) ADDITIONAL FUNDING.—A safety net shall pro-  
10   vide for additional funding through an assessment on all  
11   health insurers, health service organizations, and health  
12   maintenance organizations in the State through a non-  
13   profit association consisting of all such insurers and orga-  
14   nizations doing business in the State on an equitable and  
15   pro rata basis consistent with section 201.

16   **SEC. 205. ADMINISTRATION.**

17       A safety net in a State shall be administered through  
18   a contract with 1 or more insurers or third party adminis-  
19   trators operating in the State.

○